



EXHIBIT

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Terms and Conditions of Sale

All quotations and sales by CABATech LLC, ("CABA") are subject to these terms and conditions; provided, however, that in the event that you, the customer, have a written contractual agreement with CABA regarding your purchase of CABA products, then the terms and conditions contained in that agreement (supplemented by the non-conflicting terms contained in these Terms and Conditions) shall govern the quotations and sales of products purchased from CABA.

1. Except as otherwise set forth on the front of a CABA invoice or acknowledgment, terms of payment are net 30 days from invoice date; prices are FOB CABA's facility (as defined in the Uniform Commercial Code); and prices do not include any taxes, freight, handling, duty, tarrifs or other similar charges, payment of which will be the sole responsibility of customer. Prices are conditioned upon timely payment and any past due balance will accrue interest at the monthly rate of one and one-half percent. Freight charges may be constructed on the basis of standard carrier tariffs and may not reflect actual transportation costs. CABA reserves the right to modify terms prior to shipment, require payment in advance, or delay or cancel any shipment or order by reason of customer's creditworthiness or should customer fail to fulfill any obligation when due. You may receive an e-mail or mechanized document from CABA describing your order details. That e-mail/document legally suffices as your purchase order. It will also represent CABA's confirmation of your order. CABA may revoke its acceptance of such purchase order for any reasonable reason, including your inability to provide CABA with adequate comfort that you (i) will comply with all relevant laws, such as export regulations, or (ii) are, in CABA's sole discretion, credit worthy.
2. In the absence of prior agreement as to shipping, CABA may select a carrier. CABA's responsibility for any loss or damage ends, and title passes, when products are delivered to the carrier, to customer, or to customer's agent (including, without limitation, any test house or value added service provider), whichever occurs first. Customer will pay for storage charges if CABA holds products at customer's request pending instructions or rescheduled delivery.
3. CABA warrants those products assembled or customized by it against defects caused solely by faulty assembly or customization for 90 days after delivery. All other products, and the components and materials utilized in any assembled or customized products, are covered by, and subject to, the terms, conditions, and limitations of the manufacturer's standard warranty, which warranty is expressly in lieu of any other warranty, express or implied, of or by CABA or the manufacturer. Customer's exclusive remedy, if any, under these warranties is limited, at CABA's election, to any one of (a) refund of customer's purchase price, (b) repair by CABA or the manufacturer of any products found to be defective, or (c) replacement of any such product. Customer acknowledges that except as specifically set forth or referenced in this paragraph, **THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, IN ADVERTISING MATERIALS, BROCHURES, OR OTHER DESCRIPTIVE LITERATURE) BY CABA OR ANY OTHER PERSON, EXPRESS OR IMPLIED, AS TO THE CONDITION OR PERFORMANCE OF ANY PRODUCTS, THEIR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE. CABA ASSUMES NO**



RESPONSIBILITY OR LIABILITY WHATSOEVER FOR MANUFACTURER'S PRODUCT SPECIFICATIONS OR THE PERFORMANCE OR ADEQUACY OF ANY DESIGN OR SPECIFICATION PROVIDED TO CABA BY OR ON BEHALF OF CUSTOMER. Use of the customer's part number on any document or on any products is for convenience only and does not constitute any representation by CABA with respect to the performance, specifications, or fitness of any part for any purpose.

4. CABA retains a purchase money security interest in all products sold by CABA to customer, and in the proceeds of any resale of such products, until the purchase price and any other charges due to CABA have been paid in full. Upon any breach by customer of these terms and conditions, CABA will have all rights and remedies of a secured party under applicable law, which rights and remedies will be cumulative and not exclusive. Customer is responsible for all costs and expenses incurred by CABA in collecting any sums owing by customer (which may include, but are not limited to, collection agency and reasonable attorneys' fees). CABA shall have the right to offset any sum owed by CABA to Customer against any sum owed by Customer to CABA. These Terms and Conditions are governed by and construed in accordance with the laws of the State of California (without regard to the conflicts of laws provisions thereof). Any suit, action or proceeding to enforce rights under these Terms and Conditions or any related Order Confirmation may be brought only in the United States District Court for the Central District of California or the Superior Court of the State of California for the County of Los Angeles. The parties irrevocably submit to the personal and subject matter jurisdiction of such courts with respect to any dispute relating to these Terms and Conditions and/or any related Order Confirmation, and the parties expressly waive their respective rights to have any such action tried by jury.
5. Products are deemed accepted by customer unless customer notifies CABA in writing within 10 days of delivery of product shortages, damage or defect. No returns may be made for any reason without a Return Authorization Form issued by CABA. If customer refuses to accept tender or delivery of any products or returns any products without authorization from CABA, such products will be held by CABA awaiting customer's instruction for 20 days, after which CABA may deem the products abandoned and dispose of them as it sees fit, without crediting customer's account.
6. CABA will not be liable for any failure or delay in its performance or in the delivery or shipment of products, or for any damages suffered by customer by reason of such failure or delay, when such failure or delay is caused by, or arises in connection with, any fire, flood, accident, riot, earthquake, severe weather, war, governmental interference or embargo, strike, shortage of labor, fuel, power, materials or supplies, delay in delivery by CABA's suppliers or any other cause or causes beyond CABA's reasonable control. CABA reserves the right to cancel without liability any order, the shipment of which is or may be delayed for more than 30 days by reason of any such cause. CABA reserves the right to allocate in its sole discretion among customers or potential customers, or defer or delay the shipment of, any product which is in short supply.
7. This document, and not any purchase order or other customer document (which, if construed to be an offer is hereby rejected), will be deemed an offer or counteroffer and is a rejection of any other terms or conditions. Customer, by accepting any products, making any payments or ordering any products having previously received



these terms and conditions, will be deemed to have assented to these terms and conditions, notwithstanding any terms contained in any prior or later communication from customer and whether or not CABA will specifically or expressly object to any of customer's terms. CABA's failure to object to any document, communication or act of customer will not be deemed a waiver of any of these terms and conditions. Any addition or change to these terms and conditions must be specifically agreed to in writing by a duly authorized officer of CABA before becoming binding on CABA.

8. Except for the warranty coverage referenced in paragraph 3, above, NEITHER CABA NOR ITS SUPPLIERS WILL HAVE ANY LIABILITY OR OBLIGATION TO CUSTOMER OR ANY OTHER PERSON FOR ANY CLAIM, LOSS, DAMAGE, OR EXPENSE CAUSED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY THE INADEQUACY OF ANY PRODUCTS FOR ANY PURPOSE, BY ANY DEFICIENCY OR DEFECT IN ANY PRODUCT (WHETHER OR NOT COVERED BY ANY WARRANTY), BY THE USE OR PERFORMANCE OF ANY PRODUCTS OR BY ANY FAILURE OR DELAY IN CABA'S PERFORMANCE HEREUNDER, OR FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER CAUSED, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY OR LOSS OF BUSINESS OR PROFIT, WHETHER OR NOT CUSTOMER WILL HAVE INFORMED CABA OF THE POSSIBILITY OR LIKELIHOOD OF ANY SUCH DAMAGES.
9. The performance of any value added service may void the manufacturer's warranty and render products nonreturnable. Orders incorporating such services are, accordingly, non-cancelable and the products are nonreturnable. Any third party value added service provider is deemed to be an agent of customer.
10. Any software or other intellectual property included in or relating to products is supplied by its manufacturer or licensor. CABA makes no representation or warranty with respect thereto and will have no liability in connection therewith. Customer agrees to comply with all requirements with regard to proprietary and similar rights in and to any intellectual property (including any requirement to enter into a separate license agreement and prohibitions against duplicating or disclosing the same), even if CABA has broken the seal on any "shrink wrapped" software. If Customer provides CABA with any intellectual property, Customer warrants that it has all necessary legal rights to such property. Customer will indemnify CABA against and hold it harmless from any and all liability, cost or expense arising from a breach or purported breach of the requirements described in this section.
11. In order to defray the cost of customer account administration, any credit balance or other sum owed to customer which remains unclaimed by customer for a period of twelve months will become the property of CABA.
12. No order or Customer obligation may be cancelled, rescheduled, reconfigured, or assigned without CABA's prior written authorization and, in such event, customer will be liable to CABA for any additional costs and expenses incurred by CABA. Prices are subject to change by CABA upon customer rescheduling or reconfiguration of orders.



Prices are also subject to change in response to supplier price increases or if a price has been quoted in error, whereupon, customer may cancel the undelivered portion of any affected order by delivering written notice to CABA prior to the shipment thereof and within 10 days of its receipt of notice of the price increase.

CABA TECH LLC